issue, but merely collateral to it, the rule has no application, and parol evidence may be given, even though it covers the contents of the writing. *Coonrod* v. *Madden,* 126 Ind. 197; *Ledford* v. *Emerson,* 138 N. C. 502. It is generally held that except in cases of written instruments or records, although there may be more satisfactory means of knowledge, there is no higher grade of testimony as a means of communicating facts to a jury, than the statement of a witness who has himself had the best means of knowledge. *Clark* v. *Robinson,* 5 B. Monr. 55; *Commonwealth* v. *Morrill,* 99 Mass. 540; *Commonwealth* v. *Welch,* 142 Mass. 473. In *Lucas* v. *Williams,* [1892] 2 Q. B. 113, it was held in an action on the infringement of a copyright of a painting by publishing a photographic copy of it that proof of the photograph being a copy was allowable without requiring production of the painting. The cases above mentioned involve efforts to compel the production of a chattel and differ from those cases where a chattel is offered in evidence. The cases where there is an inscribed chattel, production of which is sought to be compelled, have given rise to a great mass of conflicting opinions which cannot be reconciled. See 2 WIGMORE, EV., § 1182.

FRAUDS, STATUTE OF—CABLE TRANSFER OF FOREIGN EXCHANGE WITHIN 17TH SECTION.—Plaintiff's oral agreement to deliver to defendant a cable transfer of exchange on London, England, for £20,000 sterling within four months at defendant's option to be paid for in dollars at the exercise of that option, thereby making available by cable to the buyer a credit of the amount specified at the point specified was *held,* either the sale of a "commodity" or a "chose in action" within the Statute of Frauds and unenforceable. *Equitable Trust Co. of N. Y.* v. *Keene,* (1920) 183 N. Y. Supp. 699.

The New York Statute of Frauds expressly includes choses in action. "A contract to sell or a sale of any goods or choses in action", PERSONAL PROPERTY LAW, SEC. 85, CH. 45, LAWS 1909, CONSOL LAW, c. 41. Section 156 of the PERSONAL PROPERTY LAW defines "goods" as including "all chattels personal other than things in action and money." So money is not considered as goods under the New York statute. In order then for the contract to sell 12,000 pounds to come within the statute it will have to appear that said pounds are not considered money. There is authority for this view. Foreign money when dealt in in this country is to be regarded as a commodity. *Reisfeld* v. *Jacobs,* 176 N. Y. Supp. 223. Even domestic money (gold) when the subject of a contract of sale, has been regarded not as money but as a commodity, and a contract for the sale thereof was held to be within the Statute of Frauds. *Peabody* v. *Speyers,* 56 N. Y. 230; *Fowler* v. *N. Y. Gold Exchange Bank,* 67 N. Y. 138; *Cooke* v. *Davis,* 53 N. Y. 318. In view of these authorities the court had ample reason for holding that the contract to transfer the title to 12,000 English pounds was within the statute. This was on the theory that the sale of a cable transfer of exchange was the sale of a commodity. But the court went still further and held that it might also be considered as the sale of a chose in action. The plaintiff's contention was that this was really a provision of credit and that credit meant "the capacity of being trusted." Plaintiff cited in support of this contention *Dry Dock Bank* v.

American Life Ins. and Trust Co., 3 N. Y. 344. That case held that the term "chose in action" means a particular species of property, recognized by law, and which, on the death of the owner would be inventoried as such by his legal representatives, and does not include credit, and, though credit may be a benefit to the possessor as a means of procuring property, it is not in itself recognized in law as property. The defect in the plaintiff's reasoning lay in the fact that they failed to see that the agreement in the principal case was not credit in the true sense at all. Credit in its true sense, to be sure, means the capacity of being trusted just as the plaintiff contended, *or* the ability to borrow money. It means that one side of the contract has been fully executed while the other side is entirely unexecuted. In the principal case that was not the situation. The pounds were to be paid for in American dollars as fast as the title to them was transferred. There was no element of borrowing. There was really no element of credit involved. What defendant wanted and what he got was the right to call upon London for so many pounds of exchange. This was clearly a chose in action. The title was still in the vendor while the right to the possession was in the vendee by virtue of the contract. Undoubtedly then the court was right in holding that on either of the above theories the contract was within the Statute of Frauds and therefore unenforceable.

INTERNAL REVENUE—INCOME TAX—LOSS SUSTAINED IN OUTSIDE SPECULATION NOT DEDUCTIBLE—"LOSSES INCURRED IN TRADE."—The taxpayer, a member of Mente & Co., who were engaged in making jute and cotton bags, in his income report for the years 1913 and 1914 deducted from his gross income, losses sustained in buying and selling cotton on the Cotton Exchange for his private account, as "losses incurred in trade." The Income Tax Act Oct. 3, 1913, Sec. II, Subd. 2B (38 STAT. 167) provides: "That in computing net income for purposes of normal tax there shall be allowed as deduction: * * * fourth, losses actually sustained during year, incurred in trade, * * *." The Collector of internal revenue assessed a tax on these deductions which the taxpayer paid under protest. In an action to recover the amounts so paid, *held,* (Manton, J., dissenting) "in trade" was rightly construed by the Collector as meaning in the actual business of the taxpayer, as distinguished from isolated transactions. *Mente* v. *Eisner* (C. C. A. 2nd Circ., 1920), 266 Fed. 161.

The majority opinion goes on to say that although it is somewhat inconsistent to tax the profits of such transactions without allowing deductions for loss, yet if intent had been to permit all losses to be deducted, the statute would say so. Treasury Decision 2090 construes correctly "in trade" to mean "the trade or trades in which he has invested money otherwise than for purpose of being employed in isolated transactions." Manton, J., dissenting, considered that what the taxpayer did here, selling cotton futures, was engaging "in trade." Trade as defined by BOUVIER is "any sort of dealings by way of sale or exchange." The interpretation put upon "in trade" by the Collector as synonymous with "in his business" is too narrow. That the Income Tax Act of 1913 has been amended by the Act of 1918, Sec. 214, Subd. 5 (40 STAT. 1067), providing deduction of "losses * * * if incurred in any trans-